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# **Notice of Allowability**

<b>Application No.</b> 10/654,311		<b>Applicant(s)</b> RABALAIS, KIRBY N.	
<b>Examiner</b> R. Alexander Smith		<b>Art Unit</b> 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--  
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a telephonic conversation with Mr. Bill Berryhill on July 8, 2004.
2. ☒ The allowed claim(s) is/are 1-9.
3. ☒ The drawings filed on 04 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

  
**Stephen D. Meier**  
 Primary Examiner

### EXAMINER'S AMENDMENT

1. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.132. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this Examiner's amendment was given in a telephonic interview with Mr. Bill B. Berryhill on July 8, 2004.
3. The application has been amended as follows:

In the claims:

Claim 1, line 15, "the" in "the upper ends" has been deleted.

Claim 3

- a. In line 1, "the" in "the said tubular" has been deleted.
- b. In line 2, "the outer ends" has been changed to --an outer end--.

Claim 6, line 13, "the" in "the lower end" has been changed to --a--.

Claim 7, line 1, "6+in" has been changed to --6 in--.

Claim 8, line 2, --the-- has been inserted before "first and second ends".

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In the specification:

On page 3, line 22 has been replaced by the following:

-- Fig. 3 is a perspective view of one of the sleeve members which forms a portion --

On page 4, line 1 has been replaced by the following:

-- Fig. 4 is a perspective view of a hinged pair of sleeve members which form a part of --

*Reasons for Allowance*

4. The following is an examiner's statement of reasons for allowance of claims 1-9.

For independent claim 1, the prior art of record does not disclose or clearly suggest a batter board apparatus having first and second sleeve members hingedly connected and adapted to slidably receive first ends of first and second elongated board members, respectively, said first and second sleeve members being provided at said hinged connection with a common tubular member the axis of which is perpendicular to said hinged movement, and third and fourth sleeve members each being provided with a tubular member the axis of which would be perpendicular to said elongated board members in combination with the remaining limitations of the claims.

Claims 2-9 are allowed due to their dependency on allowed claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

5. The prior art made of record is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 disclose related levels having lenses.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251.

The examiner can normally be reached on Monday through Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Stephen D. Meler**  
Primary Examiner

RAS  
July 8, 2004

Technology Center 2800